

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

VENTURA CONTENT, LTD.,

Plaintiff,

v.

UGC INTERNET VENTURES, LTD.,
SOBONITO INVESTMENTS, LTD.,
and DOES 1-9,

Defendants.

CIVIL ACTION

FILE NO. 1:12-CV-02856-TCB

JUDITH HAMBURGER declares, pursuant to 28 U.S.C. § 1746,
that:

1. I am a member of the board of directors of UGC Internet Ventures, Ltd. ("UGC"). As a result of my position with UGC, I have acquired good knowledge of its activities. I declare that all the facts stated in this affidavit are true and accurate to the best of my knowledge based on my understanding of the company and my position.

2. I submit this declaration on behalf of UGC, a company separate and distinct from defendant Sobonito Investments, Ltd. ("Sobonito"), in support of the Motion to Dismiss Complaint for Insufficient Process and Lack of Personal Jurisdiction.

UGC's Business

3. UGC is a company organized and existing under the laws of the British Virgin Islands ("BVI"), with a principal place of business in Cyprus, and the operator of the websites located at www.shufuni.com and www.pornbanana.com (collectively "Tube Sites").

4. UGC is merely a service provider which has content residing on its network at the direction of the Tube Site users. Each of the allegedly infringing videos was uploaded by a third party user of the Tube Sites.

5. The process by which content is uploaded and made accessible on the Tube Sites is nearly entirely automated and occurs in an internet "cloud" rather than in any physical location within the United States or elsewhere. The automated uploading and access facilitating processes occur at the volition of the tube site user. UGC's only non-automated processing of the uploaded third party content is review and rejection of content which violates the law.

6. The Tube Sites do not authorize a user to download a copy of any user content displayed on the sites. UGC does not sell its goods or services on the Tube Sites. No subscription or other contract with the Tube Site is required to view the content. Any person with access to the internet worldwide may view the content on the Tube Sites free of charge, except in those countries which restrict access to the websites completely.

7. In order to upload content to one of the Tube Sites, a person must become a registered user by providing certain contact information to UGC, and must agree to various terms and conditions, including warranting and declaring that the content the user uploads does not infringe upon the copyrights or other rights of any third party, and that he has all the necessary rights to use and upload such content. Registered users do not pay any fees to upload content. Neither the Tube Sites nor Defendants generate any revenue directly attributable to any user uploaded video, including the allegedly infringing videos.

The Allegedly Infringing Content Identified in the Complaint Has Been Removed from the Tube Sites

8. Each of the Tube Sites displays specific email contact information for a Digital Millennium Copyright Act (“DMCA”) agent to whom complaints regarding infringing content may be sent. UGC promptly removes any content when it receives a DMCA takedown notice.

9. The Tube Sites did not receive a takedown notice from the plaintiff in this case, Ventura Content, Ltd. (“Plaintiff” or “Ventura”). I have reviewed Plaintiff’s Complaint in this action and it does not specify hyperlinks to the locations on the Tube Sites where the allegedly infringing content was found. Nevertheless, UGC used all methods available to search for and remove any allegedly infringing content. Therefore, to date, none of the allegedly infringing content referenced in Exhibit A of the Complaint is located on the Tube Sites.

Furthermore, none of the allegedly infringing videos was uploaded to either Tube Site by a resident of the State of Georgia.

UGC Has Limited Contacts With the State of Georgia and the United States

10. As of November 5, 2012, the Tube Site located at www.shufuni.com has approximately 1,000,000 visitors per day, approximately 200,000 (or about 20%) of which visitors have internet connections located in the United States. Out of the total of 1,000,000 visitors per day, only about 1,500 visitors (about 0.15%) have internet connections located in the State of Georgia.

11. As of November 5, 2012, the Tube Site located at www.pornbanana.com has approximately 350,000 visitors per day, approximately 70,000 (about 20%) of which visitors have internet connections located in the United States. Out of these 350,000 visitors, only about 300 visitors (0.09%) have internet connections located in Georgia.

12. UGC maintains its principal place of business in Cyprus. The Tube Sites were developed outside the United States. UGC does not conduct or operate business in the State of Georgia or elsewhere the United States.

13. UGC does not: (a) pay taxes; (b) maintain an office, mailing address, or telephone listing; (c) own or lease any property; (d) maintain bank accounts; (e) hire employees; (f) have an agent for service; (g) hold licenses

from government agencies; (h) owe financial debt to residents either in the State of Georgia or elsewhere in the U.S.

14. UGC is not registered to do business in Georgia or any other State in the U.S.

15. UGC has also not targeted any advertisements for the sale of its goods or services or target its Tube Sites to Georgia residents or residents of the U.S.

16. UGC's only contact with the State of Georgia is its contract with the internet service provider, National Net, which is located in Georgia. National Net does not procure content for the Tube Sites or transfer any content to any users of the Tube Sites. National Net merely provides an internet connection for the Tube Sites. Such services are not provided to UGC within the State of Georgia, or in any physical location, but on the internet. UGC does not perform any activity in the State of Georgia or the U.S. in connection with its agreement with National Net, nor does it own or control any servers within the State of Georgia.

17. No one on behalf of UGC traveled to the State of Georgia to negotiate its contract with National Net and did not contract to provide services in the State of Georgia or the United States. Indeed, the agreement between UGC

and National Net is a “boilerplate” agreement which was not negotiated by the parties.

UGC Has Not Been Served With the Complaint

18. On October 23, 2012, UPS delivered four envelopes to UGC’s office address located at Nicolaou Pentadromos Center, 9th Floor, Office 905-907, Block A, Corner of Agias Zonis and Thessalonikus Streets, in Limassol, Cyprus. The individual who signed for the UPS delivery was not authorized by UGC to accept service on its behalf.

19. It is my understanding that the BVI and Cyprus are both signatories to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents and have each designated a Central Authority to receive requests for service of process. UGC has not been served with the Summons and Complaint via the Central Authority of either country.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 16th, 2012


JUDITH HAMBURGER